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Attorneys for Plaintiff OMNI KING, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

OMNI KING, INC.

Plaintiff,

v.

ACCELERANT SPECIALTY
INSURANCE COMPANY, SEDGWICK
CLAIMS MANAGEMENT SERVICES,
INC., and DOES 1 – 25

Defendants.

Case No.: 5:23-cv-00048-SSS-KKx

Case Assigned to:

District Judge Sunshine S. Sykes

Magistrate Judge Kenly Kiya Kato

**STIPULATED PROTECTIVE
ORDER**

Action Filed: November 17, 2022

Trial Date: Not Yet Set

1A. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use

1 extends only to the limited information or items that are entitled to confidential treatment
2 under the applicable legal principles. The parties further acknowledge, as set forth in Section
3 12.3, below, that this Stipulated Protective Order does not entitle them to file confidential
4 information under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed
5 and the standards that will be applied when a party seeks permission from the court to file
6 material under seal.

7 **1B. GOOD CAUSE STATEMENT**

8 This action is likely to involve trade secrets, including without limitation claims
9 procedures manuals, and other proprietary documents and materials used by a party or parties
10 in connection with the adjusting of insurance claims, for which special protection from public
11 disclosure and from use for any purpose other than prosecution of this action is warranted.
12 Such confidential and proprietary materials and information consist of, among other things,
13 confidential business, information regarding confidential business practices, or other
14 confidential research, development, or commercial information (including information
15 implicating privacy rights of third parties), information otherwise generally unavailable to the
16 public, or which may be privileged or otherwise protected from disclosure under state or
17 federal statutes, court rules, case decisions, or common law. Accordingly, to expedite the flow
18 of information, to facilitate the prompt resolution of disputes over confidentiality of discovery
19 materials, to adequately protect information the parties are entitled to keep confidential, to
20 ensure that the parties are permitted reasonable necessary uses of such material in preparation
21 for and in the conduct of trial, to address their handling at the end of the litigation, and serve
22 the ends of justice, a protective order for such information is justified in this matter. It is the
23 intent of the parties that information will not be designated as confidential for tactical reasons
24 and that nothing be so designated without a good faith belief that it has been maintained in a

1 confidential, non-public manner, and there is good cause why it should not be part of the
2 public record of this case.

3 **2. DEFINITIONS**

4 2.1 Action: this pending federal lawsuit, *Omni King, Inc. v. Accelerant Specialty Insurance*
5 *Company, et al.*, Case No. 5:23-CV-00048-SSS-(KKx).

6 2.2 Challenging Party: a Party or Non-Party that challenges the designation of
7 information or items under this Order.

8 2.3 “CONFIDENTIAL” Information or Items: information (regardless of how it is
9 generated, stored or maintained) or tangible things that qualify for protection under Federal
10 Rule of Civil Procedure 26(c), and as specified above in the Good Cause Statement.

11 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their support
12 staff).

13 2.5 Designating Party: a Party or Non-Party that designates information or items that
14 it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

15 2.6 Disclosure or Discovery Material: all items or information, regardless of the
16 medium or manner in which it is generated, stored, or maintained (including, among other
17 things, testimony, transcripts, and tangible things), that are produced or generated in
18 disclosures or responses to discovery in this matter.

19 2.7 Expert: a person with specialized knowledge or experience in a matter pertinent
20 to the litigation who has been retained by a Party or its counsel to serve as an expert witness
21 or as a consultant in this Action.

22 2.8 House Counsel: attorneys who are employees of a party to this Action. House
23 Counsel does not include Outside Counsel of Record or any other outside Counsel.

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1 2.9 Non-Party: any natural person, partnership, corporation, association, or other
2 legal entity not named as a Party to this action.

3 2.10 Outside Counsel of Record: attorneys who are not employees of a party to this
4 Action but are retained to represent or advise a party to this Action and have appeared in this
5 Action on behalf of that party or are affiliated with a law firm which has appeared on behalf
6 of that party, and includes support staff.

7 2.11 Party: any party to this Action, including all of its officers, directors, employees,
8 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

9 2.12 Producing Party: a Party or Non-Party that produces Disclosure or Discovery
10 Material in this Action.

11 2.13 Professional Vendors: persons or entities that provide litigation support services
12 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and
13 organizing, storing, or retrieving data in any form or medium) and their employees and
14 subcontractors.

15 2.14 Protected Material: any Disclosure or Discovery Material that is designated as
16 “CONFIDENTIAL.”

17 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material from a
18 Producing Party.

19 **3. SCOPE**

20 The protections conferred by this Stipulation and Order cover not only Protected
21 Material (as defined above), but also (1) any information copied or extracted from Protected
22 Material; (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any
23 testimony, conversations, or presentations by Parties or their Counsel that might reveal
24 Protected Material. Any use of Protected Material at trial shall be governed by the orders of

1 the trial judge. This Order does not govern the use of Protected Material at trial.

2 **4. DURATION**

3 Even after final disposition of this litigation, the confidentiality obligations imposed by
4 this Order shall remain in effect until a Designating Party agrees otherwise in writing or a court
5 order otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all
6 claims and defenses in this Action, with or without prejudice; and (2) final judgment herein
7 after the completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of
8 this Action, including the time limits for filing any motions or applications for extension of
9 time pursuant to applicable law.

10 **5. DESIGNATING PROTECTED MATERIAL**

11 5.1 Exercise of Restraint and Care in Designating Material for Protection: Each Party
12 or Non-Party that designates information or items for protection under this Order must take
13 care to limit any such designation to specific material that qualifies under the appropriate
14 standards. The Designating Party must designate for protection only those parts of material,
15 documents, items, or oral or written communications that qualify so that other portions of the
16 material, documents, items, or communications for which protection is not warranted are not
17 swept unjustifiably within the ambit of this Order.

18 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
19 shown to be clearly unjustified or that have been made for an improper purpose (e.g., to
20 unnecessarily encumber the case development process or to impose unnecessary expenses and
21 burdens on other parties) may expose the Designating Party to sanctions.

22 If it comes to a Designating Party's attention that information or items that it designated
23 for protection do not qualify for protection, that Designating Party must promptly notify all
24 other Parties that it is withdrawing the inapplicable designation.

1 5.2 Manner and Timing of Designations: Except as otherwise provided in this Order
2 (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered,
3 Disclosure or Discovery Material that qualifies for protection under this Order must be clearly
4 so designated before the material is disclosed or produced.

5 Designation in conformity with this Order requires:

6 (a) for information in documentary form (e.g., paper or electronic
7 documents, but excluding transcripts of depositions or other pretrial or trial proceedings), that
8 the Producing Party affix at a minimum, the legend “CONFIDENTIAL” (hereinafter
9 “CONFIDENTIAL legend”), to each page that contains protected material. If only a portion
10 or portions of the material on a page qualifies for protection, the Producing Party also must
11 clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

12 A Party or Non-Party that makes original documents available for inspection need not
13 designate them for protection until after the inspecting Party has indicated which documents
14 it would like copied and produced. During the inspection and before the designation, all of
15 the material made available for inspection shall be deemed “CONFIDENTIAL.” After the
16 inspecting Party has identified the documents it wants copied and produced, the Producing
17 Party must determine which documents, or portions thereof, qualify for protection under this
18 Order. Then, before producing the specified documents, the Producing Party must affix the
19 “CONFIDENTIAL legend” to each page that contains Protected Material. If only a portion
20 or portions of the material on a page qualifies for protection, the Producing Party also must
21 clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

22 (b) for testimony given in depositions that the Designating Party identify the
23 Disclosure or Discovery Material on the record, before the close of the deposition all protected
24 testimony.

(c) for information produced in some form other than documentary and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the container or containers in which the information is stored the legend "CONFIDENTIAL." If only a portion or portions of the information warrants protection, the Producing Party, to the extent practicable, shall identify the protected portion(s).

5.3 Inadvertent Failures to Designate: If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the Designating Party's right to secure protection under this Order for such material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1 Timing of Challenges: Any Party or Non-Party may challenge a designation of confidentiality at any time that is consistent with the Court's Scheduling Order.

6.2 Meet and Confer: The Challenging Party shall initiate the dispute resolution process under Local Rule 37.1 et seq.

6.3 The burden of persuasion in any such challenge proceeding shall be on the Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn the confidentiality designation, all parties shall continue to afford the material in question the level of protection to which it is entitled under the Producing Party's designation until the Court rules on the challenge.

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1 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

2 7.1 Basic Principles: A Receiving Party may use Protected Material that is disclosed
 3 or produced by another Party or by a Non-Party in connection with this Action only for
 4 prosecuting, defending, or attempting to settle this Action. Such Protected Material may be
 5 disclosed only to the categories of persons and under the conditions described in this Order.
 6 When the Action has been terminated, a Receiving Party must comply with the provisions of
 7 section 13 below (FINAL DISPOSITION).

8 Protected Material must be stored and maintained by a Receiving Party at a location
 9 and in a secure manner that ensures that access is limited to the persons authorized under this
 10 Order.

11 7.2 Disclosure of “CONFIDENTIAL” Information or Items: Unless otherwise
 12 ordered by the court or permitted in writing by the Designating Party, a Receiving Party may
 13 disclose any information or item designated “CONFIDENTIAL” only to:

14 (a) the Receiving Party’s Outside Counsel of Record in this Action, as well as
 15 employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose
 16 the information for this Action;

17 (b) the officers, directors, and employees (including House Counsel) of the
 18 Receiving Party to whom disclosure is reasonably necessary for this Action;

19 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure
 20 is reasonably necessary for this Action and who have signed the “Acknowledgment and
 21 Agreement to Be Bound” (Exhibit A);

22 (d) the court and its personnel;

23 (e) court reporters and their staff;

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(f) professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information;

(h) during their depositions, witnesses, and attorneys for witnesses, in the Action to whom disclosure is reasonably necessary provided: (1) the deposing party requests that the witness sign the form attached as Exhibit 1 hereto; and (2) they will not be permitted to keep any confidential information unless they sign the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material may be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order; and

(i) any mediator or settlement officer, and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions.

8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this Action as “CONFIDENTIAL,” that Party must:

(a) promptly notify in writing the Designating Party. Such notification shall include a copy of the subpoena or court order;

(b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order

1 is subject to this Protective Order. Such notification shall include a copy of this Stipulated
2 Protective Order; and

3 (c) cooperate with respect to all reasonable procedures sought to be pursued by
4 the Designating Party whose Protected Material may be affected. If the Designating Party
5 timely seeks a protective order, the Party served with the subpoena or court order shall not
6 produce any information designated in this action as “CONFIDENTIAL” before a
7 determination by the court from which the subpoena or order issued, unless the Party has
8 obtained the Designating Party’s permission. The Designating Party shall bear the burden and
9 expense of seeking protection in that court of its confidential material and nothing in these
10 provisions should be construed as authorizing or encouraging a Receiving Party in this Action
11 to disobey a lawful directive from another court.

12 **9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**
13 **PRODUCED IN THIS LITIGATION**

14 (a) The terms of this Order are applicable to information produced by a Non-
15 Party in this Action and designated as “CONFIDENTIAL.” Such information produced by
16 Non-Parties in connection with this litigation is protected by the remedies and relief provided
17 by this Order. Nothing in these provisions should be construed as prohibiting a Non-Party
18 from seeking additional protections.

19 (b) In the event that a Party is required, by a valid discovery request, to produce
20 a Non-Party’s confidential information in its possession, and the Party is subject to an
21 agreement with the Non-Party not to produce the Non-Party’s confidential information, then
22 the Party shall:

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1 (1) promptly notify in writing the Requesting Party and the Non-Party that
2 some or all of the information requested is subject to a confidentiality agreement with a Non-
3 Party;

4 (2) promptly provide the Non-Party with a copy of the Stipulated
5 Protective Order in this Action, the relevant discovery request(s), and a reasonably specific
6 description of the information requested; and

7 (3) make the information requested available for inspection by the Non-
8 Party, if requested.

9 (c) If the Non-Party fails to seek a protective order from this court within 14
10 days of receiving the notice and accompanying information, the Receiving Party may produce
11 the Non-Party's confidential information responsive to the discovery request. If the Non-
12 Party timely seeks a protective order, the Receiving Party shall not produce any information
13 in its possession or control that is subject to the confidentiality agreement with the Non-Party
14 before a determination by the court. Absent a court order to the contrary, the Non-Party shall
15 bear the burden and expense of seeking protection in this court of its Protected Material.

16 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

17 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected
18 Material to any person or in any circumstance not authorized under this Stipulated Protective
19 Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the
20 unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the
21 Protected Material, (c) inform the person or persons to whom unauthorized disclosures were
22 made of all the terms of this Order, and (d) request such person or persons to execute the
23 "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A.

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1 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
2 **PROTECTED MATERIAL**

3 When a Producing Party gives notice to Receiving Parties that certain inadvertently
4 produced material is subject to a claim of privilege or other protection, the obligations of the
5 Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This
6 provision is not intended to modify whatever procedure may be established in an e-discovery
7 order that provides for production without prior privilege review. Pursuant to Federal Rule of
8 Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure
9 of a communication or information covered by the attorney-client privilege or work product
10 protection, the parties may incorporate their agreement in the stipulated protective order
11 submitted to the court.

12 **12. MISCELLANEOUS**

13 12.1 Right to Further Relief: Nothing in this Order abridges the right of any person
14 to seek its modification by the Court in the future.

15 12.2 Right to Assert Other Objections: By stipulating to the entry of this Protective
16 Order no Party waives any right it otherwise would have to object to disclosing or producing
17 any information or item on any ground not addressed in this Stipulated Protective Order.
18 Similarly, no Party waives any right to object on any ground to use in evidence of any of the
19 material covered by this Protective Order.

20 12.3 Filing Protected Material: A Party that seeks to file under seal any Protected
21 Material must comply with Civil Local Rule 79-5. Protected Material may only be filed under
22 seal pursuant to a court order authorizing the sealing of the specific Protected Material at issue.
23 If a Party's request to file Protected Material under seal is denied by the court, then the
24 Receiving Party may file the information in the public record unless otherwise instructed by

1 the court.

2 **13. FINAL DISPOSITION**

3 After the final disposition of this Action, as defined in paragraph 4, within 60 days of a
4 written request by the Designating Party, each Receiving Party must return all Protected
5 Material to the Producing Party or destroy such material. As used in this subdivision, “all
6 Protected Material” includes all copies, abstracts, compilations, summaries, and any other
7 format reproducing or capturing any of the Protected Material. Whether the Protected
8 Material is returned or destroyed, the Receiving Party must submit a written certification to
9 the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60
10 day deadline that (1) identifies (by category, where appropriate) all the Protected Material that
11 was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies,
12 abstracts, compilations, summaries or any other format reproducing or capturing any of the
13 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival
14 copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal
15 memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work
16 product, and consultant and expert work product, even if such materials contain Protected
17 Material. Any such archival copies that contain or constitute Protected Material remain subject
18 to this Protective Order as set forth in Section 4 (DURATION).

19 **14. VIOLATION**

20 Any violation of this Order may be punished by any and all appropriate measures
21 including, without limitation, contempt proceedings and/or monetary sanctions.

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1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

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3 Dated: September 6, 2023

FREEMAN MATHIS & GARY, LLP


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5 By:


Matthew S. Jones, Esq.
Mary K. Planchet, Esq.
Attorneys for Defendant ACCELERANT
SPECIALTY INSURANCE COMPANY

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7
8 Dated: September 12, 2023

L&F BROWN, P.C.


9
10 By:


Joon Song, Esq.
Jordan M. Cohen, Esq.
Attorneys for Plaintiff OMNI KING, INC.

11
12
13
14 Dated: 9/12, 2023

**WINGET SPADAFORA &
SCHWARTZBERG LLP**

15
16 By:


Timothy W. Fredricks, Esq.
Richard P. Tricker, Esq.
Attorneys for Defendant SEDGWICK
CLAIMS MANAGEMENT SERVICES,
INC.

CERTIFICATE OF SERVICE*Omni King Inc. v. Sedgwick Claims Management Services, Inc., et al.*

USDC Central District of California Case No. 5:23-cv-00048-SSS-KK

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) and not a party to the within action; my business address is 6430 Sunset Boulevard, Suite 505, Los Angeles, California 90028.

On September 12, 2023, I served the documents described as:

- STIPULATED PROTECTIVE ORDER**

on the interested parties listed below:

Richard P Tricker WINGET SPADAFORA AND SCHWARTZBERG LLP 1900 Avenue of the Stars Suite 450 Los Angeles, CA 90067 Telephone: 310-836-4800 Facsimile: 310-836-4801 Email: tricker.r@wssllp.com fredricks.t@wssllp.com	<i>Attorneys for</i> SEDGWICK CLAIMS MANAGEMENT SERVICES, INC
Matthew Steven Jones FREEMAN MATHIS AND GARY LLP 550 South Hope Street Suite 2200 Los Angeles, CA 90071-2361 Telephone: 213-615-7000 Facsimile: 213-615-7100 Email: mjones@fmglaw.com jlparaon@fmglaw.com	<i>Attorneys for</i> ACCELERANT SPECIALTY INSURANCE COMPANY

☒ I hereby certify that on September 12, 2023 I electronically filed the foregoing document with the United States District Court Central District of California by using the CM/ECF system. I certify that the following parties or their counsel of record are registered as ECF Filers and that they will be served by the CM/ECF system:

/s/ Jason Olesen
Jason Olesen

ORDER

Pursuant to the parties' stipulation, and for good cause shown, IT IS SO ORDERED.

Dated: September 13, 2023



HONORABLE KENLY KIYA KATO
MAGISTRATE JUDGE OF THE
UNITED STATES DISTRICT COURT